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### REMARKS

Applicants respectfully request reconsideration of the above-identified patent application. Claims 1, 3-9 and 11-20 remain in the application. Claims 1, 5, 11, 12 and 17 are amended to more particularly point out and distinctly claim the subject matter which Applicant regards as the invention. Claims 2 and 10 are canceled.

Applicants submit that the claim amendments made herein are fully supported by the original disclosure. First, the independent claims are amended to recite that the projections extend from the base, and not from the tamping face. This subject matter was disclosed in the original independent claims. Second, claim 1 is amended to recite that the projections are discrete, and that they extend over only a portion of the base and do not surround the vacuum holes. This subject matter is clearly supported by the original drawings, such as Fig. 2, which shows the projections as a plurality of round domes. Further support is found in the Specification at page 4, paragraph 0022, which recites that the projections may be “in the nature of domes 170” that are “patterned across the face 162.” Finally, claim 11 is amended to recite that a substantial portion of the label, but not the entire label, is held at a stand-off from the base. This language is clearly supported in the Specification at page 5, paragraph 0026, which states that “It may be possible to provide a (regular or irregular) pattern of domes such that *only a substantial portion* of a label was maintained at a stand-off from the base of a tamping face.” [Emphasis added.]

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I. Invention Summary

The present invention is directed to a tamping labeler for applying labels to objects. The tamping labeler is capable of moving from a retracted position to an extended position in order to tamp labels onto products. The tamping labeler has a tamping face that includes a base having a plurality of vacuum holes. A plurality of projections project outwardly from the base. The projections are mutually exclusive of the vacuum holes. The projections maintain at least a substantial portion of the label at a stand-off from the base to reduce the surface tension between the label and the tamping face. As defined in amended independent claim 1, the projections are discrete, with each projection extending over only a portion of the base and not completely surrounding the vacuum holes. As defined in amended independent claim 11, the projections maintain at least a substantial portion of a label, but not the entire label, at a stand-off from the base. The reduced surface tension created by the projections helps to ensure that the surface tension between the tamping face and a label is less than the tack adhesion between the label and the product, so that when a label is tamped against a product, it remains there.

II. Section 112 Rejections

As previously presented, claims 1-20 were rejected under 35 U.S.C. 112, first paragraph. In view of the amendments presented herein, Applicants submit that this rejection is overcome.

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### III. Allowable Claims

Claims 5 and 17 were rejected on the basis of Section 112, but not on the basis of prior art. Claims 5 and 17 are amended into independent form to include the subject matter of their respective base claims and any intervening claims. In view of these amendments, and the amendments made to overcome the Section 112 rejections, Applicants submit that claims 5 and 17 are allowable.

### IV. Art Rejections

#### A. Section 102 Rejection Based on U.S. Patent 5,100,491 to Ijiri

As previously presented, claims 1, 3, 4 and 9 were rejected under 35 U.S.C. 102(b) as being anticipated by Ijiri.

Ijiri discloses a labeling apparatus including a die for attaching a label to an article. The apparatus draws a series of labels across the die, and heats them on the die to activate a thermo-sensitive adhesive agent so that the labels attach to flexible items, such as blood bags. The face of the die includes a plurality of vacuum holes. As shown in Fig. 1(f), the label surface may include a grid of rectangular-shaped ridges that protrude from the label surface. Each of the vacuum holes is positioned within one of the rectangular ridges, such that it is completely surrounded by the ridge. The ridges prevent air from being trapped between the face of the die and the label, to enable a tighter, more uniform attachment between the die and the label. Column 5, lines 48-54.

With respect to amended independent claim 1, Ijiri does not disclose 1) a tamping labeler for use in a labeling apparatus, 2) a tamping face supported by the tamping labeler such

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that it is movable from a retracted position to an extended tamping position, or 3) projections that extend over only a portion of said base but do not completely surround the vacuum holes. Ijiri is directed to a labeling apparatus with a die for heating labels. Ijiri does not disclose, teach or suggest a tamping labeler with a face that is movable from a retracted position to an extended tamping position. Additionally, the raised portions of Ijiri completely surround the vacuum holes (as shown in Fig. 1(f)), which *increases* the force holding the label on the face, as opposed to reducing surface tension between the label and the face. This is directly opposite to the claimed invention, which do not completely surround the vacuum holes so that air can circulate around the holes to reduce surface tension.

Because Ijiri fails to disclose all of the elements of amended independent claim 1, it is respectfully submitted that the rejection based on Ijiri under Section 102 is unfounded and/or overcome, and therefore should be withdrawn.

B. Section 102 Rejection Based on U.S. Patent 4,680,082 to Kearney

As previously presented, claims 1, 3, 4, 6 and 9 were rejected under 35 U.S.C. 102(b) as being anticipated by Kearney.

Kearney discloses another thermal label application apparatus. The labels are heated, and then peeled from their backing layer and moved onto a label application surface. The labels are held in place on the label surface with a vacuum, and provided with a brief burst of air in order to place them on a product. The label surface includes multiple parallel ridges 76, with vacuum holes 80 positioned in rows between each of the ridges. The ridges extend in the direction that the labels travel onto the label surface. At least one of the ridges 76 is taller than

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the rest to prevent the labels from wrinkling or bunching as they are moved onto the label surface.

With respect to amended independent claim 1, Kearney does not disclose 1) a tamping labeler for use in a labeling apparatus, 2) a tamping face supported by the tamping labeler such that it is movable from a retracted position to an extended tamping position, or 3) labeler that extends over only a portion of the base but does not completely surround the vacuum holes. Like Ijiri, Kearney is directed to a completely different apparatus than the present invention. It does not disclose, teach or suggest a tamping labeler with a tamping face that can be moved from a retracted position to an extended position. In addition, Kearney discloses raised ridges that extend across the entire label surface. These ridges allow air flow between the ridges in only one direction. In contrast, the projections of the present invention extend over only a portion of the tamping face, allowing air to flow over the face in multiple directions to reduce the surface tension between a label and the face.

Because Kearney fails to disclose all of the elements of amended independent claim 1, it is respectfully submitted that the rejection based on Kearney under Section 102 is unfounded and/or overcome, and therefore should be withdrawn.

C. Section 103 Rejection Based on U.S. Published Patent Application 2001/0037853 to Anderson in View of Kearney

As previously presented, claims 1, 3, 4, 6, 7, 9-16, 18 and 20 were rejected under 35 U.S.C. 103 as being unpatentable over Anderson in view of Kearney.

Anderson discloses to the labeler that the present invention was expressly

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developed to overcome. Anderson discloses a tamping labeler having a bellows 38 with a distal end for carrying a label 41. The distal end of the bellows is flat, and includes a plurality of vacuum holes. As stated in the Background of the Invention, the Anderson tamping labeler arrangement is problematic because surface tension between the tamping surface and the label can prevent the label from remaining on a product after it has been tamped.

Applicants submit that there is no teaching, suggestion or motivation in the prior art to combine Kearney with Anderson. First, Kearney and Anderson are two completely different types of labelers. There is nothing in either reference to suggest that the raised ridges of Kearney could be substituted into a tamping labeler such as Anderson. In fact, Anderson teaches the use of an improved venturi device for holding the labels *more tightly* on the tamping face. The use of ridges to reduce the bond between the label and the tamping face would be directly contrary to the teaching of Anderson. Second, the primary purpose of the raised ridges of Kearney is to prevent the label from bunching or wrinkling as it is moved onto the label applicator surface. This purpose is inapposite for tamping labelers like Anderson or the present invention, because the labels do not move along the tamping face, and therefore provides no motivation for modifying the face of Anderson to include such ridges.

Applicants further submit that the prior art references fail to recognize the problem that is addressed by the present invention. Anderson is focused only on keeping the labels on the tamping face – as opposed to reducing the surface tension between the label and the tamping face. Anderson suggests nothing about the problems associated with tamping wet labels. Kearney is not even a tamping labeler, and therefore fails to contemplate the problems

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with surface tension addressed by the present invention.

In addition, Kearney and Anderson, even if combined for some unknown reason, do not disclose, teach or suggest the subject matter of claim 1. In particular, neither reference discloses a tamping face having a base with a plurality of discrete projections, wherein the projections extend over only a portion of the base. The raised ridges of Kearney extend across the entire label surface, allowing air flow over the label surface in only one direction. In contrast, the projections of the present invention extend across only a portion of the label surface, reducing surface tension between a wet label and the tamping face by allowing air flow in multiple directions. Because neither reference even mentions the problem solved by the present invention, there is no motivation to use the projections of the present invention.

Kearney and Anderson additionally fail to disclose, teach or suggest every element of amended independent claim 11. Specifically, neither reference discloses a plurality of projections projecting outwardly from the base for maintaining at least a substantial portion of a label, but not the entire label, at a stand-off from the base. Kearney discloses raised ridges that hold the entire label at a stand-off from the base, and Anderson discloses no ridges or projections at all. Nothing suggests maintaining only a portion of the label at a stand-off from the base.

Because Kearney and Anderson do not disclose, teach or suggest the subject matter of the amended independent claims, Applicant submits that the rejection under Section 103 is unfounded and/or overcome, and therefore should be withdrawn.

D. Section 103 Rejection Based on Anderson In View of Kearney and Nielsen

As previously presented, dependent claims 8 and 19 were rejected under 35

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U.S.C. 103 as being unpatentable over Anderson and Kearney in view of U.S. Published Patent Application 2002/0189741 to Nielsen.

Nielsen is cited for disclosing a one-way valve for blocking the vacuum holes. However, Nielsen does not supplement the above-noted inadequacies of Kearney and Anderson with respect to independent claim 1 and similarly as applied to claim 12, from which claims 8 and 19 depend. In particular, Nielsen does not disclose, teach or suggest a labeler apparatus having a tamping face including a base, and a plurality of projections projecting outwardly from the base for maintaining at least a substantial portion of a label at a stand off from the base or reducing surface tension between the label and the tamping face.

Applicant therefore submits that the rejection of claims 8 and 19 under Section 103 are unfounded and/or overcome, and therefore should be withdrawn.

E. Dependent Claims

The dependent claims further define Applicants' invention and are therefore even more clearly allowable than the claims discussed above. Claims 3 and 15 recite that the projections are arranged such that each hole is at least partially surrounded by at least one of the projections. Claims 4 and 16 recite that at least some of the projections are ridges. Claims 6 and 18 recite that at least some of said projections are domes. Claim 7 recites flexible accordion sides for allowing the tamping labeler to extend and retract. Claims 9 and 20 recite that the tamping face is textured and the projections result from the texture of the tamping face. Claim 13 recites a flexible bellows having a retracted position and an extended tamping position. Claim 14 recites that the tamping face of each tamping labeler has a plurality of holes.



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V. Conclusion

In view of the above amendments, and these remarks, Applicants respectfully submit that the present application is in condition for allowance. A notice to that effect is earnestly and respectfully requested.

Respectfully submitted,

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